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May 27, 1983

Stephen Shakman, Esq.
Minnesota Pollution Control Agency
1935 West County Road B2
Roseville, Minnesota 55113

Dear Steve:

I have your letter of May 20, 1983 requesting a copy of the video tape presentation on May 19, 1983, at the St. Louis Park Senior High School auditorium. I am planning to obtain a copy, and, as I explained in our last telephone conversation, will plan to make arrangements so that you may have a copy as well.

However, there are a number of items that we have requested from the plaintiffs in this matter and have not yet received. You should refer to my letter of January 7, 1983 and the attached list of information requests. Most of these items have not yet been received with the following exceptions.

1. We received from St. Louis Park the plans for the Louisiana/Highway 7 interchange.

2. We obtained from other sources the regional planning reports on future water supplies for Minneapolis prepared by the Metropolitan Council and the DNR.

3. With respect to the November 10, 1982 letter from Gregg to Comstock regarding information sought from Hult, I am advised that in early December, Gregg, Shanahan and Ryan of ERT talked with Hult by telephone to establish some priorities. Then in April they received a letter from Mark Simonett of the PCA dated March 30, 1983 and with it received the materials described therein.

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4. With respect to the information requested from Professor Pfannkuch regarding adsorption of PAH, we found in the University of Minnesota Engineering School library a Master's thesis by Cohen entitled, "Dispersion and Adsorption of Hydrocarbons in Aquifer Materials." Evidently, Cohen was a graduate student working for Professor Pfannkuch. It is unclear to me how the United States can claim work product privilege on this when the research is to be found in the University of Minnesota library.

Obviously, not all of these items are of equal importance. Just as obviously, the response to some of these requests is long overdue (for example, I have been asking you for two years for the results of the "round robin" tests done on St. Louis Park ground waters). If I were to prioritize some of these requests, I would say that the results of Hickok's work on multi-aquifer wells and the requested update on ground water analysis are at the top of the list. To this I would add the latest results from the CH2M Hill treatment studies. ERT has information which was prepared for the January milestone meeting, but has seen nothing since that time.

In addition, we have been asking St. Louis Park orally and in writing for documents relating to the construction of Louisiana Avenue and the construction of the storm sewer in the year 1975. Our requests go back to August of 1982.

I have two overall concerns. One concern is based upon the fact that all parties have been in the practice of making informal written requests for production of documents. This is as it should be so that it is not necessary to prepare formal Rule 34 requests and follow this up by motion. However, when the responses become long overdue, such as the responses with respect to the round robin testing and with respect to the 1975 highway and sewer construction, I wonder whether these informal procedures are working properly. My second concern is that many of the items requested are needed by ERT for its ongoing analysis of the St. Louis Park problem. I expect that after all of the plaintiffs have had a chance to review the ERT report and recommendations, there will be technical discussions between the consultants concerning the appropriate remedy. If ERT does not have the important items that we have asked for, the consultants will not enter these discussions in an equal position.

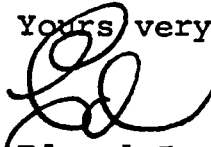
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While David Hird has made a "work product" claim with respect to ground water modeling done by the USGS, I have in my file a draft of the "open file report" prepared by the USGS dated November 7, 1979. This was done before the United States even commenced its lawsuit. My understanding is that this work was done under contract with the State of Minnesota. Once again, this makes me dubious about his work product claim. In any event, you will see that the ERT report, especially Appendix E, contains extensive ground water modeling results and interpretations. I was strongly urged by Dennis Coyne at the August 24, 1982 meeting to allow the technical consultants to communicate with one another on the theory that this was in the public interest. Therefore, once again I urge David Hird to reconsider his claim of privilege and to produce the USGS ground water modeling results so that Marc Hult and Dr. Peter Shanahan can discuss their results with one another, as I know they both would like to do.

Yours very truly,



Edward J. Schwartzbauer

EJS:ml

cc: Robert Polack, Esq.
Mr. John C. Craun
All Counsel of Record